

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director  
Metropolitan Council Office

DATE: **Thursday, November 9, 2006**

**- BILLS INVOLVING AMENDMENTS TO THE ZONING ORDINANCE -**

**ORDINANCE NO. BL2006-1088** (TYGARD, DREAD & WILLIAMS) – This zoning text change modifies the definition of various park uses and makes active parks permitted as a special exception. The zoning code currently defines “park” as being one of the three following uses:

1. An area open to the public for recreational uses;
2. An area predominantly kept in a natural state; or
3. Governmental property specifically designated as a park, natural area or recreation area, provided that greenways are not to be considered parks under the zoning code.

This ordinance amends the zoning code to make a distinction between “active” parks and “passive” parks. An “active” park includes any outdoor area open to the public that includes permanent structures such as pavilions, playgrounds, pools, and bleachers and/or allows for organized team sports or serves as a cultural place. Active parks would only be permitted as a special exception use, which would require approval of the board of zoning appeals. A “passive” park would be an outdoor facility open to the public for any passive recreational activity such as hiking, biking and camping. Passive parks would be permitted with conditions in all zoning districts.

This ordinance would also add certain conditions that active parks would have to meet in order to be eligible for a special exception. First, the driveway access would have to be from a collector street. Second, active parks abutting or across the street from residential districts would have to maintain a minimum of fifty feet between any parking lot, playground or athletic field and the abutting residential area. Third, all lighting glare would have to be directed on-site. Finally, a landscape buffer yard would be required along any district permitting a residential use.

The council office would point out that this ordinance would directly affect schools within Davidson County that seek to expand their athletic facilities, since such facilities would be considered an “active” park and would be required to obtain a special exception from the board of zoning appeals.

This ordinance has been referred to the planning commission.

**ORDINANCE NO. BL2006-1177** (CRAFTON) – This zoning text change amends the sidewalk provisions of the code by modifying the basis for calculating a financial contribution in lieu of sidewalk construction. In September 2004, the Council approved an ordinance amending the sidewalk provisions to grant relief to developers of property from having to install sidewalks in certain circumstances. One of the provisions of the 2004 ordinance included a payment in lieu of construction of sidewalks. Once funds are paid into the “sidewalk bank”, the ordinance provides that the funds must be expended within 24 months of receipt on sidewalk construction within the same “pedestrian benefit zone” as the property for which sidewalks would otherwise be required. The ordinance established eleven pedestrian benefit zones for the county. The amount of the payment in lieu of sidewalk construction is set on an annual basis by the department of public works based upon a review of the cost of sidewalk projects constructed by Metro. In fiscal year 2006, the contribution in lieu of sidewalk construction was set by public works at \$92 per linear foot.

This ordinance would modify the method of calculation for determining the amount required to be paid into the sidewalk bank in lieu of sidewalk construction. Instead of being determined by the department of public works, the amount of contribution would be based upon a graduated scale. The cost would be \$30 per linear foot for the first fifty feet, \$60 per linear foot for fifty-one through one hundred feet, and \$90 for each additional linear foot in excess of one hundred feet.

This ordinance has been disapproved by the planning commission.

**ORDINANCE NO. BL2006-1178** (NEIGHBORS & TYGARD) – This zoning text change would designate “car wash” as use permitted with conditions under the zoning code, rather than require car washes to be a part of a specific plan (SP) district. In March 2006, the Council enacted Ordinance No. BL2006-972 making most automotive uses no longer permitted in the commercial zoning districts. Rather, such uses have to be approved individually by the council as part of a SP district. The SP district was created by the council in September 2005 to give the council more control over how the property is developed than a straight zone change to another zoning district. The SP district is designed to be an alternative zoning process to address the unique characteristics of an individual property through a site specific plan. A detailed plan is to be created for each property, which must be followed by the developer.

According to the statements made to the council office and the planning commission staff by the original sponsor of this ordinance, former Member of Council Amanda McClendon, car washes were inadvertently included as part of Ordinance No. BL2006-972, and should not have been limited to only the SP district. Thus, this ordinance essentially puts car washes back in the same position they were in prior to the enactment of Ordinance No. BL2006-972, which is permitted with conditions. This ordinance also specifies certain conditions that must be met before a car wash can be permitted. These conditions are as follows:

1. The car wash would have to be set back at least fifty feet from any residential district.
2. The washing facilities must be located within an enclosed structure.
3. Car washes must be separated from adjacent property by a 6-8 foot tall masonry wall.
4. Hours of operation would be limited to 8:00 a.m. to 10:00 p.m. if the car wash is located within 100 feet of a residential district.
5. No outdoor loud speakers would be permitted.

6. No vehicles for sale may be parked on the premises.

This ordinance was deferred indefinitely by the planning commission. Since more than thirty days have elapsed from the date of referral to the planning commission, the public hearing may be held on this ordinance and it may be adopted on second reading.

**ORDINANCE NO. BL2006-1206** (SUMMERS & JAMESON) – This zoning text change would replace the existing special exception standards for historic home events with new standards. Under the zoning code, “historic home events” must be permitted by the board of zoning appeals (BZA) as a special exception use. The zoning code defines historic home event as “the hosting of events such as, but not limited to, weddings or parties for pay at a private home which has been judged to be historically significant by the historic commission.” The code includes certain criteria that must be met in order for property to be permitted to hold these home events, such as parking standards, limited meal service, and a requirement that the home be owner-occupied. This ordinance expands these standards to limit the impact that such a use has on the surrounding neighborhood.

The new standards for historic home events are as follows:

1. The event must be held at a historically significant home, which is the same as the current standard.
2. All exterior work on the structure must be approved by the historic zoning commission using the neighborhood conservation overlay design guidelines.
3. Historic home events would have to be separated by at least 1,000 feet from another historic home event.
4. If the lot is less than five acres, all aspects of the event must be located indoors. If the lot is more than five acres, events may be held outside at the discretion of the BZA. This restriction would greatly limit the ability of historic home events from being located in urban areas since all activities would have to take place indoors.
5. If the minimum parking standards require additional parking on the property, the parking must meet the perimeter parking lot landscaping requirements and the parking must be located on the property “so as not to impact the continuity of the existing neighborhood context.”
6. All lighting must be shielded from adjacent properties.
7. Meals and beverages are limited to patrons of the event only.
8. The home must be owner-occupied, and a site plan must be submitted detailing the personal living space, event preparation areas, and event location areas.
9. The BZA may limit the number and frequency of the events and may limit the number of attendees per event to minimize disturbance to surrounding properties.

This ordinance has been approved by the planning commission.